

SENATE BILL 383

Unofficial Copy  
R3

2003 Regular Session  
(31r0269)

*ENROLLED BILL*  
*-- Judicial Proceedings/Judiciary --*

Introduced by **Senators Ruben, Giannetti, Hollinger, Jimeno, Lawlah, and  
Teitelbaum, Teitelbaum, Brochin, Forehand, Haines, and Jacobs**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this  
\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_ M.

\_\_\_\_\_  
President.

CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Drunk and Drugged Driving Alcohol- or Drug-Related Offenses - Custodian**  
3 **Liability Warning - Offender Detention - Vehicle Impoundment Prohibition**  
4 **on Driving(John's Law)**

5 FOR the purpose of ~~requiring law enforcement agencies to provide certain custodians~~  
6 ~~with a written statement advising of potential criminal or civil liability for~~  
7 ~~allowing or facilitating a person who has been arrested for a certain drunk or~~  
8 ~~drugged driving violation to operate a motor vehicle while the person remains~~  
9 ~~under the influence of alcohol or impaired by alcohol or drugs; requiring a~~  
10 ~~custodian to acknowledge, in writing, receipt of the statement or, if the~~  
11 ~~custodian refuses, requiring the law enforcement agency to record that the~~  
12 ~~statement was provided but the custodian refused to sign an acknowledgment;~~  
13 ~~requiring a law enforcement officer to detain certain persons based on probable~~  
14 ~~cause of a violation of certain drunk or drugged driving offenses for a certain~~  
15 ~~period of time; requiring the arresting law enforcement agency to impound for a~~  
16 ~~certain period the motor vehicle that the arrestee was operating at the time of~~

1 the arrest; establishing requirements for the release of a motor vehicle  
 2 impounded under this Act; requiring the Attorney General to perform certain  
 3 duties and adopt certain regulations; clarifying that this Act does not impose a  
 4 duty on certain physicians or other health care providers; defining certain  
 5 terms; and generally relating to prohibiting a person who is arrested for certain  
 6 alcohol- or drug-related offenses from driving a motor vehicle for a certain  
 7 period; providing for an assessment of points against an individual and certain  
 8 penalties for a violation of this Act; and generally relating to a prohibition  
 9 against driving a motor vehicle for a certain period after an arrest for certain  
 10 drunk or drugged driving offenses.

11 BY repealing and reenacting, with amendments,  
 12 Article - Transportation  
 13 Section 16-402(a)(24) and 27-101(c)(25) and (26)  
 14 Annotated Code of Maryland  
 15 (2002 Replacement Volume)

16 BY adding to  
 17 Article - Transportation  
 18 Section 21-902.1 and 27-101(c)(26)  
 19 Annotated Code of Maryland  
 20 (2002 Replacement Volume)

21 **Preamble**

22 ~~WHEREAS, John Elliott, a distinguished member of the United States Naval~~  
 23 ~~Academy Class of 2000, was killed by a drunken driver while driving from Annapolis,~~  
 24 ~~Maryland to New Jersey on July 22, 2000; and~~

25 ~~WHEREAS, The person whose car struck John's car had been arrested on a~~  
 26 ~~drunk driving charge 3 hours earlier and released to the custody of a friend, but~~  
 27 ~~nevertheless had resumed driving until the accident killed both men and injured~~  
 28 ~~Kristen Hohenwarter of Westminster, Maryland; and~~

29 ~~WHEREAS, In the aftermath of John's death, the General Assembly believes it~~  
 30 ~~important to enact a law, such as one recently enacted in New Jersey, that helps~~  
 31 ~~protect innocent individuals such as John Elliott from drunk or drugged drivers who~~  
 32 ~~resume driving shortly after they are arrested; now, therefore,~~

33 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
 34 MARYLAND, That the Laws of Maryland read as follows:

35 **Article - Transportation**

36 16-402.

37 (a) After the conviction of an individual for a violation of Title 2, Subtitle 5, §  
 38 2-209, or § 3-211 of the Criminal Law Article, or of the vehicle laws or regulations of

1 this State or of any local authority, points shall be assessed against the individual as  
 2 of the date of violation and as follows:

3           (24) Driving while impaired by alcohol or while impaired by a drug,  
 4 combination of drugs, or a combination of one or more drugs and alcohol. OR DRIVING  
 5 WITHIN 12 HOURS AFTER ARREST UNDER § 21-902.1 OF THIS ARTICLE ..... 8 points

6 21-902.1.

7       (A) ~~(1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS~~  
 8 ~~INDICATED.~~

9           ~~(2) IN THIS SECTION, "ARRESTEE" MEANS A PERSON WHO HAS BEEN~~  
 10 ~~ARRESTED FOR A VIOLATION OF § 21-902 OF THIS SUBTITLE OR TITLE 2, SUBTITLE 5~~  
 11 ~~OR § 3-211 OF THE CRIMINAL LAW ARTICLE.~~

12       (B) AN ARRESTEE MAY NOT DRIVE A MOTOR VEHICLE WITHIN 12 HOURS  
 13 AFTER THE ARRESTEE'S ARREST FOR A VIOLATION OF § 21-902 OF THIS SUBTITLE OR  
 14 TITLE 2, SUBTITLE 5 OR § 3-211 OF THE CRIMINAL LAW ARTICLE.

15       ~~(3) "CUSTODIAN" MEANS A PERSON WHO, IN RESPONSE TO A SUMMONS~~  
 16 ~~BY OR ON BEHALF OF AN ARRESTEE, APPEARS AT A LAW ENFORCEMENT AGENCY TO~~  
 17 ~~TRANSPORT OR ACCOMPANY THE ARRESTEE FROM THE LAW ENFORCEMENT~~  
 18 ~~AGENCY.~~

19       ~~(B) (1) A LAW ENFORCEMENT AGENCY SHALL PROVIDE A CUSTODIAN WITH~~  
 20 ~~A WRITTEN STATEMENT ADVISING OF POTENTIAL CRIMINAL LIABILITY UNDER §~~  
 21 ~~26-101 OF THIS ARTICLE OR CIVIL LIABILITY FOR ALLOWING OR FACILITATING THE~~  
 22 ~~ARRESTEE'S OPERATION OF A MOTOR VEHICLE WHILE THE ARRESTEE REMAINS:~~

23           ~~(I) UNDER THE INFLUENCE OF ALCOHOL OR UNDER THE~~  
 24 ~~INFLUENCE OF ALCOHOL PER SE;~~

25           ~~(II) IMPAIRED BY ALCOHOL;~~

26           ~~(III) IMPAIRED BY DRUGS OR DRUGS AND ALCOHOL; OR~~

27           ~~(IV) IMPAIRED BY A CONTROLLED DANGEROUS SUBSTANCE.~~

28       ~~(2) (I) THE CUSTODIAN SHALL ACKNOWLEDGE, IN WRITING, RECEIPT~~  
 29 ~~OF THE STATEMENT DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION.~~

30           ~~(II) IF THE CUSTODIAN REFUSES TO ACKNOWLEDGE RECEIPT OF~~  
 31 ~~THE STATEMENT, THE LAW ENFORCEMENT AGENCY SHALL RECORD THAT THE~~  
 32 ~~STATEMENT WAS PROVIDED BUT THE CUSTODIAN REFUSED TO SIGN AN~~  
 33 ~~ACKNOWLEDGMENT.~~

34       (C) ~~EXCEPT AS OTHERWISE AUTHORIZED UNDER LAW, A LAW ENFORCEMENT~~  
 35 ~~OFFICER SHALL DETAIN AN ARRESTEE BASED ON PROBABLE CAUSE THAT THE~~

1 ~~ARRESTEE VIOLATED § 21-902 OF THIS SUBTITLE, FOR A PERIOD UNTIL THE LATER~~  
2 ~~OF:~~

3           (1)     ~~12 HOURS AFTER THE ARREST; OR~~

4           (2)     ~~THE TIME THE ARRESTEE IS ABLE TO OPERATE A MOTOR VEHICLE~~  
5 ~~SAFELY WITHOUT VIOLATING ANY PROVISION OF THIS ARTICLE.~~

6     ~~(D)     THE ARRESTING LAW ENFORCEMENT AGENCY SHALL IMPOUND THE~~  
7 ~~MOTOR VEHICLE THAT THE ARRESTEE WAS OPERATING WHEN ARRESTED AND MAY~~  
8 ~~NOT RELEASE THE MOTOR VEHICLE TO THE ARRESTEE UNTIL THE LATER OF:~~

9           (1)     ~~12 HOURS AFTER THE ARREST; OR~~

10          (2)     ~~THE TIME THE ARRESTEE MEETS THE CONDITIONS OF SUBSECTION~~  
11 ~~(F) OF THIS SECTION.~~

12     ~~(E)     A MOTOR VEHICLE IMPOUNDED UNDER THIS SECTION MAY BE RELEASED~~  
13 ~~TO A PERSON OTHER THAN THE ARRESTEE BEFORE THE END OF THE IMPOUNDMENT~~  
14 ~~PERIOD DESCRIBED UNDER SUBSECTION (D) OF THIS SECTION ONLY IF:~~

15           (1)     ~~THE MOTOR VEHICLE IS NOT OWNED OR LEASED BY THE ARRESTEE~~  
16 ~~AND THE PERSON WHO OWNS OR LEASES THE MOTOR VEHICLE CLAIMS THE MOTOR~~  
17 ~~VEHICLE AND MEETS THE CONDITIONS FOR RELEASE SPECIFIED IN SUBSECTION (F)~~  
18 ~~OF THIS SECTION; OR~~

19          (2)     ~~(I)     THE MOTOR VEHICLE IS OWNED OR LEASED BY THE ARRESTEE;~~

20                   ~~(II)    THE ARRESTEE ALLOWS THE RELEASE OF THE MOTOR~~  
21 ~~VEHICLE TO ANOTHER PERSON WHO HAS ACKNOWLEDGED, IN WRITING, RECEIPT OF~~  
22 ~~THE STATEMENT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION; AND~~

23                   ~~(III)   THE CONDITIONS FOR RELEASE SPECIFIED IN SUBSECTION (E)~~  
24 ~~OF THIS SECTION ARE MET.~~

25     ~~(F)     A MOTOR VEHICLE IMPOUNDED UNDER THIS SECTION MAY NOT BE~~  
26 ~~RELEASED UNLESS THE PERSON CLAIMING THE MOTOR VEHICLE:~~

27           (1)     ~~PRESENTS A VALID DRIVER'S LICENSE, PROOF OF OWNERSHIP OF OR~~  
28 ~~LAWFUL AUTHORITY TO OPERATE THE MOTOR VEHICLE, AND PROOF OF VALID~~  
29 ~~MOTOR VEHICLE INSURANCE FOR THAT MOTOR VEHICLE;~~

30           (2)     ~~IS ABLE TO OPERATE THE MOTOR VEHICLE SAFELY WITHOUT~~  
31 ~~VIOLATING ANY PROVISION OF THIS ARTICLE; AND~~

32           (3)     ~~SUBJECT TO REVIEW BY THE DISTRICT COURT, MEETS ANY OTHER~~  
33 ~~REASONABLE CONDITION FOR RELEASE THAT IS ESTABLISHED BY THE LAW~~  
34 ~~ENFORCEMENT AGENCY.~~

35     ~~(G)     A LAW ENFORCEMENT AGENCY THAT IMPOUNDS A MOTOR VEHICLE~~  
36 ~~UNDER THIS SECTION MAY CHARGE A REASONABLE FEE FOR TOWING AND STORAGE~~

1 ~~OF THE MOTOR VEHICLE AND MAY RETAIN THE MOTOR VEHICLE UNTIL THE FEE IS~~  
2 ~~PAID.~~

3 ~~(H) THE ATTORNEY GENERAL SHALL:~~

4 ~~(1) ESTABLISH THE CONTENT AND FORM OF THE WRITTEN STATEMENT~~  
5 ~~OF LIABILITY AND ACKNOWLEDGMENT OF RECEIPT DESCRIBED UNDER SUBSECTION~~  
6 ~~(B) OF THIS SECTION; AND~~

7 ~~(2) ADOPT REGULATIONS TO CARRY OUT THIS SECTION.~~

8 ~~(I) THIS SECTION DOES NOT IMPOSE A DUTY ON A PHYSICIAN OR OTHER~~  
9 ~~HEALTH CARE PROVIDER INVOLVED IN THE TREATMENT OR EVALUATION OF THE~~  
10 ~~ARRESTEE.~~

11 27-101.

12 (c) Any person who is convicted of a violation of any of the provisions of the  
13 following sections of this article is subject to a fine of not more than \$500 or  
14 imprisonment for not more than 2 months or both:

15 (25) Except as provided in subsections (f) and (q) of this section, §  
16 21-902(d) ("Driving while impaired by controlled dangerous substance"); [or]

17 (26) § 21-902.1 ("DRIVING WITHIN 12 HOURS AFTER ARREST"); OR

18 [(26)] (27) § 27-107(d), (e), (f), or (g) (Prohibited acts - Ignition interlock  
19 systems").

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take  
21 effect October 1, 2003.